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07/30/2003

GREGORY M DOUDNIKOFF
IBM CORPORATION DEPARTMENT T81/062
3039 CORNWALLIS ROAD
RTP, NC 27709

EXAMINER

DEMICCO, MATTHEW R

ART UNIT

PAPER NUMBER

2697

DATE MAILED: 07/30/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/469,007

Applicant(s)

LINEHAN, MARK H.

Examiner

Matthew R Demicco

Art Unit

2697

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 May 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,7,8,20,26,27,39,45,46 and 56-59 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

- 5) ☐ Claim(s) _____ is/are allowed.

- 6) ☒ Claim(s) 1,7,8,20,26,27,39,45,46 and 56-59 is/are rejected.

- 7) ☐ Claim(s) _____ is/are objected to.

- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other:

DETAILED ACTION

Response to Amendment

1. This Action is in response to an amendment filed 05/12/03. Claims 1, 7-8, 20, 26-27, 39, 45-46 and 58-59 are pending. Claims 2-6, 9-19, 21-25, 28-38, 40-44 and 47-57 have been canceled. Claims 58 and 59 are new. The Examiner withdraws the 35 U.S.C. 112, second paragraph rejections in light of the amended claims. The Examiner withdraws the Objection to the Specification's margins in light of the duplicate copy filed with the amendment.

Response to Arguments

2. Applicant's arguments filed 5/12/03 have been fully considered but they are not persuasive. Applicant argues that a URL, as used in Bezos, is distinct from the claimed "payment protocol message." The Examiner points out that the URL of Bezos, which contains such information as product ID, store (merchant) ID and commission ID, is, in fact a payment message (Col. 12, Lines 57-65). Further, a protocol is defined as a "standard procedure for regulating data transmission between computers." The URL of Bezos could therefore be considered a protocol.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 7-8, 20, 26-27, 39, 45-46 and 58-59 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,878,141 to Daly et al. in view of U.S. Patent No 6,029,141 to Bezos et al.

Regarding Claims 1, 20 and 39, Daly discloses a system, method and computer program product for enabling television-based (Col. 6, Lines 39-44) commerce for generating revenue streams. The product is a software program (Col. 7, Lines 40-42) that is readable by a computer system (Col. 6, Lines 37-55) in an interactive television environment (Col. 9, Lines 8-10) connected to a computer network (Col. 6, Lines 56-59). This reads on a computer readable media readable by one or more computer systems. Daly further discloses computer-readable program code means for a consumer initiating a purchase via the TV commerce system (Col. 7, Lines 1-47) using the interactive television environment (See Figure 5) wherein the transaction pertains to an offering of a merchant (102). What is not disclosed, however, is computer readable program code with means for gathering context information related to the transaction, including the context information in a payment protocol message corresponding to the transaction, sending the payment protocol message to a payment processor that processes payments for the merchant, receiving the message at the payment processor, automatically allocating a portion of the consumer's payment to one or more TV originators identified by the included information and reducing the amount of the payment to the merchant by the automatically allocated portion. Bezos discloses computer-readable networked-based commerce software where additional context information is gathered and included in a payment message corresponding to a transaction (Col. 7, Lines 20-45). Further, Bezos

discloses including the gathered context information in a payment protocol message (Col. 12, Lines 57-65) corresponding to the transaction. Bezos discloses sending the payment protocol message to a payment processor that processes payments for the merchant (See Figures 1 and 2) to initiate the consumer's payment to the merchant (See Figure 9). The payment processor must inherently receive the payment protocol message in order to complete the transaction. Bezos also discloses automatically allocating a portion of the payment to the originator through the use of the included context information (Col. 13, Lines 1-4). It is inherent that the payment to the merchant would be reduced by the amount allocated to the purchase originator. Bezos is evidence that ordinary workers in the art would recognize the benefit of collecting and transmitting context information for billing and commission purposes in an electronic commerce system. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the computer program product for enabling TV-based commerce of Daly with the embedded context information of Bezos in order to track, record, and process data regarding the nature and origin of an online purchase.

Regarding Claims 7, 26 and 45, Daly in view of Bezos discloses a system as stated above in Claims 1, 20 and 39. Bezos further discloses a system wherein the program uses the included context information for extracting the identification of the content originators (Col. 12, Lines 52-63) and determining a portion to be allocated using a predetermined percentage (Col. 13, Lines 1-4) of the payment for each of the content originators.

Regarding Claims 8, 27 and 46, Daly in view of Bezos discloses a system as stated above in Claims 1, 20 and 39. Bezos further discloses a system wherein the included context information is sent to the content originators (Col. 16, Lines 11-19 and Appendix B) from the payment processor. Additionally, the content originator receiving the vendor's funds will receive among other things, the name and account information of the purchaser, which are elements of the context information. It is inherent in such a system that this information will be sent to the content originators in the form of a statement or payment notification.

Regarding Claim 58, Daly in view of Bezos disclose a system as stated above in Claim 39. Daly further discloses that the payment processor checks with a sponsoring financial institution to determine if a purchaser is within their credit limit (Col. 13, Lines 22-35). In the system of Daly, the payment processor is in communication with an acquiring bank. It is inherent that the server running the payment processor software could be located anywhere with a network connection, including at a bank or other locations in communication with a bank.

Regarding Claim 59, Daly in view of Bezos disclose a system as stated above in Claim 39. It is inherent in such a system that the merchant receives the included context information from the payment processor in order to process the purchase for shipping and record keeping.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew R Demicco whose telephone number is (703) 305-8155. The examiner can normally be reached on Mon-Fri, 9am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile can be reached on (703) 305-4380. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-5359 for regular communications and (703) 872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-0377.

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MRD

mrd

July 21, 2003

Andrew Faile

ANDREW FAILE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600